Reforming Dáil Éireann

A view from the backbenches

Eoghan Murphy TD

Dear Colleague,

The following pamphlet contains suggestions for debate in the Parliamentary Party on how to reform Dáil Éireann further in order to better meet people's expectations of the national parliament.

What is proposed is a series of simple procedural measures, changes to how we do our work that should improve the Oireachtas and Dáil for ourselves and for the public; changes that do not require new legislation or constitutional reform, but simply political will on our part.

It is only one view – a view from the backbenches. Its purpose is to stimulate and assist discussion within the Fine Gael Parliamentary Party on the reform agenda.

This document builds upon previous work in this area by Fine Gael, as well as on this government's determination to introduce radical reform, as outlined in Fine Gael and Labour's Government for National Recovery 2011-2016 programme.

Eoghan Murphy TD, March 2013

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Why we need to change the way we think about Dáil Éireann

"Political failure lies at the heart of Ireland's economic collapse" (Fine Gael New Politics document, February 2011).

Though it will never have popular interest, reforming Dáil Éireann is one of the most critical yet understated challenges for the future of our country.

People like to blame bankers and developers, the Central Bank or the Regulator for our country's economic downfall. We in Fine Gael blame the political system in place at the time.

At the first Fine Gael parliamentary party meeting after the election, where the Government for National Recovery 2011-2016 document was ratified, many party Members expressed a similiar viewpoint. The country would follow us with the difficult economic decisions to be made, it was said, if these decisions were met with visible reforms, particularly of our own profession, so that past economic mistakes could not be repeated.

One particular motivation for many TDs contesting the General Election of 2011 was the desire to reform Dáil Éireann to make it the proper check and balance vis-à-vis government policy and its implementation that all parliaments should be.

This government has reformed the House for the better when compared with the previous government. But the previous government's performance is not a benchmark that people outside of Dáil Éireann are interested in.

Radical plans like the proposal to abolish the Seanad are

already underway and this debate will cast much attention on the perceived deficiencies in the Dáil that keep it from acting as a proper parliament.

To prepare for the abolition of the Seanad, greater power and responsibility must now be vested in Dáil Éireann as a body independent of the Executive and one properly able to hold it to account, or else this referendum risks failure. There is then a sense of urgency to our work.

We live in a parliamentary democracy. The parliament is elected to represent the citizens and to use its collective judgement to accept, reject or amend the decisions of government in the best interests of the nation as a whole. Our own constitution states in Article 28.4.1 that "The Government shall be responsible to Dáil Éireann." A parliament should never be reduced to acting as a vehicle of the executive for rubber-stamping its decisions.

Can we confidently say that this has not been the case here in Ireland for the past ten years or more? Do we really believe that there is any true independence in the operation of the Dáil?

When we look at the average week of a TD, for the vast majority, particularly those on the government backbenches, what happens in the Dáil chamber is an aside to the main week-to-week business.

Issues are tackled outside of the chamber, to some extent in committee (Oireachtas and internal), to a greater extent in private meetings with Ministers and their civil servants and special advisors. But the times demand greater openness than that. And if we are to rebuild the image of the politician in the collective consciousness, we need to show people more of what we do, and show ourselves at our best, and worst.

We must prepare now for the opportunities that post-crisis

Ireland will present. Of course this task encompasses a whole range of challenges across the broad spectrum of our society, ones that have greater relevance and immediacy to the population as a whole. This is the programme that our Ministers and government are currently pursuing.

But if the foundations of our democracy continue to be weak, whatever we build on them will be weaker. So we in the Oireachtas must start with ourselves, with restoring the democratic value of Dáil Éireann, which is at the heart of our society and state.

In September of our first year of government some important reforms were initiated, for example: an increase in sitting days; a new Friday sitting to allow backbenchers to debate their own legislation; a 'topical issues' segment to allow debate on political matters relevant to the day; and reform of the committee system. These improvements have not been built upon, and initial reforms now require reform themselves.

We are promised further change. Until then, the following ideas are offered as a modest contribution to the debate.

Some will read this and conclude that the ideas are impractical given the expectations of constituents on their representatives to perform solely as individual and constituency representatives. This may be true. But no one will thank us for not fully reforming the political system when we had the chance.

The proper re-orientation of the centre-piece of a TD's week towards the national will not be able to take full effect until such time as the necessary reforms take place at the local level – this means giving elected Councillors real powers and revenue-raising abilities, thus taking the TD out of the local power-broking equation – and to the electoral system, how we choose those that represent us.

Now is the time to reform the House in order to meet the demands of the people and prepare for the opportunity that reforms elsewhere will present.

A list of proposed Reforms

Reforming the Whip system

- Loosening of Party Whip on matters that are not essential

Reforming the Committee System

- New Budgetary Oversight Committee
- New Special Committee for each Bill
- Removal of the Whip at committee stage
- Reform existing committee structure
- Separate time for committee and Dáil sessions
- Special time for committees to report to the Dáil
- Allow for committee minority reports

Reforming how we do business in the chamber

Leaders' Questions

- Taoiseach to take Leaders' Questions once a week
- Time to be increased to facilitate longer debate
- Sub-division of time to be abolished to allow as many exchanges as possible
- New section to allow backbench questions
- Introduction of Tánaiste's Questions

Ministers' Questions

- Priority questions abolished
- Members' attendance mandatory in order for question to be taken
- Re-structuring of time to facilitate greater exchange

General debate

- Guillotine only enforceable through a non-whipped vote
- No pre-allocation of speaking slots, save for Ministers and senior spokespeople
- Speaking time to be divided between Members, not between parties and groupings

- Discourage the reading from scripts by ordinary Members
- No automatic restriction on speaking time

Organising our business

- Order of business to be taken at the beginning of business
- Votes on the order of business not to be whipped
- Questions on promised legislation to be directed to the Whip's office

Topical debates

- Relevant Minister to respond to topical issues
- Increase in number of topical issues taken

Private Members' Bills

- More than one Bill to be taken on the Friday sitting
- More than one Bill from each Member allowed
- No Whip on voting on such Bills, with exception
- Lottery system to be weighted

Section 1
Reforming the Whip System

"There should be a loosening of Party discipline on legislative matters which are not essential." (Reform of the Dáil, 1980)

This quote is from the internal policy document 'Reform of the Dáil', which was drafted by John Bruton, approved by the Fine Gael Parliamentary Party and endorsed by its then leader Garret FitzGerald in 1980. The document further stated that "both amendments and free votes are possible without excessive damage to the overall programme of the Government", citing the then recent minority government in the UK parliament which allowed both.

The UK parliament today provides us with such an example: political parties with whip systems in a parliament with free votes. And both the party system and the parliament are stronger for it.

What one considers an 'essential' legislative matter is open for debate, but in accepting the principle of allowing free votes, parties would be in a position to debate that matter themselves internally before making a decision on individual issues and pieces of legislation as to whether or not the whip would be rigorously enforced.

In the 1980s, Fine Gael believed inflexible party discipline was the main (but not the only) reason for the ineffectiveness of the Dáil. We see this today still.

The whip system in its essence means that a TD can never take an opposing view to the leadership of his or her party in the Dáil. A TD must always vote with his or her party on

every vote, be it in committee, in relation to the time given over to debating a certain issue, or on more substantive issues surrounding legislation or other such debates. There are positives to this arrangement.

However, if the TD does not vote with the party, he or she faces automatic expulsion.

An elected member of Dáil Éireann faces a constant challenge in trying to balance what can sometimes be contradictory responsibilities: to the constituency that elected you and asked you to represent its views in the national parliament; to the party you represent; to the nation as a whole as a member of this central decision-making body; and, to yourself and your own judgement.

Invariably, voting always according to the diktat of your party will mean that there will be times when you are reneging on your other responsibilities – to your constituents, to your country, or to yourself.

It is generally not difficult to resolve this conflict on minor issues, say for example if one thought that there should not be a time limit on debating a certain Bill but still had to vote to impose one. On the most serious items it is also not too difficult a quandary. If a government is to govern, it has to be confident that it can get key decisions through with the full support of its parliamentary party membership. The annual budget at its final stage – agreeing that we will have a budget for the following year so that normal services can continue – is an example of such a decision.

Losing such a vote would entail the fall of a government and most members of a government party would not need to be whipped to tell them this would be a bad thing.

But what about all those matters in between? If a TD thought they had a meaningful amendment to an environment Bill for example, which their party did not support, should he or she not still be able to propose it and vote for it in the hope that others in parliament would? And what if they fundamentally disagreed with a piece of education legislation from the government, could they not vote against that – indeed could not the piece of legislation be voted down if there was enough support – without the government losing its authority to govern the state?

In either case – the acceptance of a non-government amendment or the defeat of a non-money bill – this would represent the collective members of the national parliament telling the government: we as a majority of representatives of the people based on our judgement and reflecting all considerations, do not agree with you on this particular point.

Would this be such a bad thing? Isn't this how a parliamentary democracy is supposed to work?

The government cannot be expected to draft the best possible legislation every time. And government is only one part of our democratic jigsaw, with its own perspective on what it believes is in the national interest. So even though it might think it has the best understanding and the best solution, that opinion ought to rest with the elected members of the parliament before any decision leaves the House.

That is what the parliament is there for and that is what its Members were elected to do.

Furthermore, if the opposition thought they might actually be able to amend a Bill or get an amendment or Bill passed with cross-party support in the House, they would be forced to act more responsibly and to act in the national interest rather than just posturing on the populist cause of the day.

The parliament has a responsibility to act as a counterbalance to the government's great executive authority and power. Whipping party members on every single decision prevents this balancing from happening. The state and the country suffer as a result.

Consider this – in a parliamentary democracy what authority does legislation leaving the national parliament have as a piece of law, if the people who approved the legislation may have been coerced in some way in to framing that law?

Good work does happen behind the scenes, in attempting to get pieces of legislation changed for example. But behind the scenes does not serve the general population better in terms of their appreciation of politics or why a particular decision was made; nor does it serve the individual TD for that matter, who cannot properly demonstrate their role in national affairs. And, of course, there is less transparency or accountability 'behind the scenes'.

Individual TDs will take an interest in certain areas and so follow a particular piece of legislation's course through the Dáil more carefully than other Bills. But they still will not be able to seriously alter the course of that Bill in the Dáil. And, over time, as the legislator realises that they cannot in fact legislate, their priorities re-focus on matters that he or she can affect.

This leaves the TD as a legislator in name but not in practice.

The parliament becomes weak in its authority, but also in its ability. The danger really only surfaces after a period of time, either when a judge interprets a law in an unintended way, a new state authority acts in a way it was not intended to under the establishing legislation, or an entire economy comes crashing down because not enough legislators were keeping a steady eye on the detail.

In addressing the question of what went wrong in our economy, we in Fine Gael blame the politicians and the political system that was in place: politicians bred of a dysfunctional parliament, who went on to take executive power, leaving a dysfunctional parliament in place to act as their counterweight. And it did not work.

Why continue making the same mistake? Why not implement the proposals of our past leaders? Why not show a healthy democratic Fine Gael party by returning to it the most basic democratic principle – the right to a free vote.

For what is a vote worth if it is not free?

Section 2
Reforming the Committee System

- New Budgetary Oversight Committee
- New Special Committee for each Bill
- Removal of the Whip at committee stage
- Reform existing committee structure
- Separate time for committee and Dáil sessions
- Special time for committees to report to the Dáil
- Allow for committee minority reports

A lot of good work happens in committees on a regular basis but is not picked up on because committee business, with the exception of the Public Accounts Committee, is not always reported. There is a communications issue here, but essentially the ordering and structuring of committees and their work is done in such a way so that their work cannot effectively be examined.

Committees holding their meetings at the same time as debates in the chamber does not work. People cannot attend both and often meetings have to be suspended to take votes in the chamber, which is disruptive to committee business. Committees should not be in session when the Dáil chamber is.

As part of the government's initial reforms, a number of committees were abolished leading to the creation of super-committees (for example, the Joint Committee on Education and Social Protection, with 21 Members). Are Oireachtas committees too large to sufficiently accommodate all their Members on a given matter? Is the range of issues that committees are responsible for too wide for them to adequately do their work within natural time constraints?

If the Oireachtas committee is where the individual legislator is meant to get in to the detail of pieces of legislation or other national issues, such deficiencies, if true, must be addressed, particularly given recent history. We may need to reform the existing committee structure. We may also need to create new kinds of committees.

Fine Gael's 1980 Reform of the Dáil document proposed that "on every Bill a special committee be appointed to take evidence from members of the public and interest groups." Under this policy the special committee would have no more than four weeks to consider the Bill before it was taken in the Dáil chamber at second stage (the main debate). It would not have the power to accept, reject or amend the Bill, but would have the power to make recommendations. Its main purpose would be to ensure that members had a proper knowledge of all views on the Bill, including key stakeholders, improving public interaction with and support for legislation – "the standard of debates would also be improved as a result of the extra knowledge obtained" (Reform of the Dáil, 1980).

This idea was endorsed in Fine Gael's New Politics document of February 2011. We need to implement this idea now, either with special committees or sub-committees of reformed Dáil committees.

A new Budgetary Oversight Committee should also be established, to debate the budgetary position and related matters on a year-long basis, with a fixed membership, but also providing for any member to come to the committee with their own proposals, and have them costed and debated. The central purpose of this committee would not only be oversight of budgetary matters and a key role in the examination of any proposed budgetary matters, but also to limit the element of surprise which can bring much uncertainty to the economic cycle by 'revealing' the following year's budget on a given day

and voting it through quickly before the end of the year.

Further along the legislative process we come to the committee stage, where amendments to a Bill are submitted and debated at the relevant Oireachtas committee. Amendments at committee stage should not be whipped; this does not preclude such an amendment being voted down at a later stage, but it does encourage all TDs to involve themselves in the detail of a Bill if they believe that a recommended change from them could get support at committee stage (and thus possibly later).

Committees should have to report to the Dáil on a regular basis and their reports should be debated. There should also be a mechanism whereby Members of a committee can produce their own minority report if desired.

Section 3
Reforming how we do business in the Chamber

Making Leaders' Questions more robust

- The Taoiseach to only take Leaders' Questions once each week, for a longer period of time, with time allocated for backbencher questions

Leaders' Questions is the primary mechanism for holding the Taoiseach accountable in the Dáil to the Members of Dáil Éireann on the political issues of the day.

This part of the business is meant to last twenty-one minutes according to the standing orders and takes place on Tuesday afternoons, Wednesday mornings, and Thursday mornings (when it is usually taken by the Tánaiste).

Does the existing process serve the Dáil as well as it could? Were past leaders and governments ever really held accountable under this arrangement or did it merely provide a platform for political grandstanding?

The current way in which Dáil time is structured impedes the ability for a robust exchange between political leaders and the Taoiseach. The Taoiseach could be better held accountable to the Dáil, and better demonstrate the government's efforts, in one lengthy and re-invigorated session in the middle of the week, rather than over three shorter periods divided between himself and the Tánaiste on separate days.

This would not preclude the possibility of Tánaiste's questions,

and indeed, in coalition government, this is something that could become its own established practice.

Breakdown of new arrangement:

- The Taoiseach to only attend once in the week for Leaders' Questions, for a total period of forty minutes
- In this time each opposition leader would have a section of time (10 minutes) to question the Taoiseach
- Rather than being confined to one question and one reply, the opposition leader could have as many exchanges on the issue as the time slot allows
- There would also be a short period at the end (10 minutes) to allow backbenchers from any party to ask the Taoiseach a brief question and receive a brief reply (five slots at two minutes each)
- The current format for Leaders' Questions would continue on Tuesdays and Thursdays, taken by the Tánaiste.

Making Ministers' Questions more robust

- Abolish Priority Questions and treat all Members equally
- Questions submitted will only be answered orally if the submitting Member is present in the chamber
- Time should be re-structured to facilitate greater exchange on an issue

Cabinet Ministers also take questions in the Dáil as part of the government's accountability to the chamber for its agenda.

The first five questions selected for answer are determined as 'priority' questions, with further questions also being taken if time allows. However, government backbench TDs may not engage on priority questions. Exchanges are also less robust

than they could be. The concept of 'priority' questions should be abolished, with all TDs being allowed to participate for the entire debate.

Often a TD will submit a question and is fortunate enough to have it selected high up the list, but will not attend in chamber – his or her question will still be taken by the Minister. This practice should be abolished: if a TD does not show up to have their question taken then the next question on the order paper should be answered and debated.

While questions should be pre-submitted, there should be more time given over to back and forth so there can be sharper, shorter exchanges that would be generally more informative than statements - more like the reformed Leaders' Questions.

Making general debate more robust

- No pre-allocation of speaking slots, save for Ministers and senior spokespeople
- Guillotine only enforceable through a non-whipped vote
- The use of scripts by Members other than Ministers or senior spokespeople to be discouraged
- Speaking time to be divided between Members, not between parties and groupings
- No automatic restriction on speaking time

If a TD wants to speak on a debate they must organise this through their Whip. The Whip will allocate the TD a speaking slot and time. For example, a TD might be told on Monday that his or her speaking time is for five minutes on Thursday; that TD will generally arrive in to the chamber minutes before he or she speaks, get up and speak, and leave minutes after.

This is not debate, it is just a series of statements on the record. The odd exchange takes place, or a TD may base their remarks on the remarks of someone from across the floor, but this is rare in the main.

On the new Friday sitting, if a Member wishes to speak, he or she must sit in the chamber and wait to be called to speak, based on the order in which it was indicated that he or she wanted to speak. TDs must spend more time in the chamber listening to the debate as they wait to be called to speak and there is also greater exchange between Members as they consider each other's ideas. This should be the practice for all Bills and all debates.

The use of scripts is a related problem: by allowing TDs other than Ministers and opposition spokespeople to read in full from a script, a TD is not required to put a great amount of preparation in to what is said, or where the matter is complicated, to ensure they have a proper grasp of the issue at hand. This compounds the problem of the lack of time spent in the chamber or the need to pay attention to what is happening inside it.

TDs should of course be able to use notes as a platform for what they want to say, but where a script is clearly being read this should be challenged by other Members.

Reforming the organisation of speaking time and discouraging the use of scripts should also reduce the number of TDs speaking on an issue simply for the sake of speaking on that issue, making the organisation of business more efficient.

As for the time a TD should be afforded to speak, there should always be time allocated for every Member to speak on a particular piece of legislation or debate if they choose to. That time should be divided between TDs and not between parties and groupings, and would ideally not be restricted against a

TD's wishes, while still recognising the Dáil's right to impose a guillotine on an issue (but only the Dáil's right – i.e. a non-whipped vote on the matter).

Organising our business

- Votes on the order of business not to be whipped
- Order of business to be taken at the beginning of business in the chamber
- Questions on promised legislation to be directed to the Whip's office

For the ordering of business in the House – what will be debated that day, and at what time, and the procedure for each debate – as this is the business of the Dáil, if a vote is called on a particular issue, this vote would not be whipped. While this may not radically alter the outcome of votes on the order of business, it is an important point of principle: the parliament remains the master of its own affairs.

There is also a 'back door' mechanism on the order of business to allow TDs to raise individual issues not necessarily related to the actual order of business. The main device for this is the pre-text of asking a question about promised legislation. This should be abolished. If a TD has a genuine question about when a piece of promised legislation is to be taken in the future then the Whip's office should set up a dedicated email address for this.

Topical Debates

- The relevant Minister must be present to respond to topical issues raised
- Increase the number of topical issues taken each day

The introduction of 'Topical Issues' on the order of business has been a positive reform, allowing TDs to engage with Ministers on relevant issues. However the absence of the appropriate Minister on occasion has weakened this reform.

The Government for National Recovery 2011-2016 document stipulates that the relevant Minister must attend in the chamber for this business and this must be adhered to. If the relevant Minister (or their junior) is not available then the issue should not be taken. Four Deputies are selected each day of sitting by the Ceann Comhairle but this number could be increased.

Private Members' Bills

- More than one Bill should be taken on the Friday sitting
- The lottery system should be weighted in favour of Bills that have been on the order paper longer
- Members should be able to have more than one Bill in the lottery
- There should be no Whip on voting for such Bills, unless it is a money Bill or a Bill that contradicts promised or existing legislation from the government

One Friday a month the Dáil sits to allow a backbencher to introduce and debate their own piece of legislation. The Member's Bill is selected by lottery. This new sitting represents perhaps the best innovation from the government. However it does need to be amended as outlined above.

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A view from the backbenches

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